



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

REGULAR MEETING OF THE TOWN COUNCIL

Thursday, February 3, 2022

MEETING HELD VIA HYBRID METHOD

MINUTES

In Attendance

Town Council Members:

Mayor Carmean, Vice Mayor Napolitano (Zoom), Treasurer Rymer (Zoom), Secretary Magdeburger, Council Member Bortner (Zoom), Council Member Breger (Zoom)

Absent: Council Member Benn

Staff in Attendance:

Town Manager Schuchman, Police Chief Devlin, Finance Manager Gary, Public Works Manager Locke, Town Administrator Menominee, Police Clerk Ellinger

Others in Attendance:

Along with the Town Council and Staff, there were 5 in-person participants and an additional 27 participants who called into the meeting.

1. Special Service Recognition of County Councilman John L. Rieley & Introduction of New County Councilman Doug Hudson, District 5

2. Employee Service Awards- Cpl. Jen Kerin (10) & Town Manager Pat Schuchman (25)

Mayor Carmean recognized Cpl. Jen Kerin for her 10 years of service and Town Manager Schuchman for her 25 years of service to the Town of Fenwick Island.

3. President's Report - Mayor Carmean

Mayor Carmean extended well wishes to families of Anna Welsh, Ray McCabe and Anna Naughton. She said they will be missed in the community. Mayor Carmean said in regards to Covid-19, the Town is following Governor Carney's restrictions and everyone is masking up at Town Hall. She reported that the new air filter systems were installed in the Council meeting room and the Police Department building. Mayor Carmean also reported that a Fenwick Island Newsletter (FIN) was mailed

out to all residents and property owners and noted that the new Council and committee meetings have been moving forward. She also said a legal training for Board of Adjustments and Planning Commission was held and also a FOIA training was provided for staff and Council. She said that the Holiday Tree Lighting and the Fenwick Freeze were both successful events. Mayor Carmean said she would like a Memorial Day Service to be held in the park and was looking for volunteers. She extended a special thank you to Mike Locke and the Public Works crew for working to get the snow cleared from the Town. Mayor Carmean said she understood that there were some damages to mailboxes along Coastal Highway which should be brought to DelDOT's attention. She also reported that the new tax assessment was underway through Sussex County.

4. Approval of Minutes from December 3, 2021 & Approval of Executive Minutes

MOTION to approve the December 3, 2021 meeting minutes.

Moved by: Natalie Magdeburger

Seconded by: Janice Bortner

MOTION passed unanimously.

5. For Discussion and Possible Action:

5.1. CarvBilt LLC Request to Extend Building Permit

Mr. TJ Carven presented to Town Council for a building permit extension of 120 days.

MOTION to extend a 4-month building permit for CarvBilt LLC.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

5.2. Survey Results

Mayor Carmean reported on the residential survey results and the overall opinion is 1.6 out of 4 with 1 being the best score.

5.3. Audit Report

Treasurer Rymer reported the Audit Committee had a

meeting on January 18, 2022 and there were no issues of non-compliance. He did report that there was one significant weakness in that the Town is unable to provide its own Annual Financial Statements. Treasurer Rymer said that 90% of Towns are unable to provide the same document. He added that monthly improvements are needed. The Audit Committee voted to accept both the audit report and auditor communications. The Audit Committee also voted unanimously for the Town Council to approve the audit report.

MOTION to accept the Audit Report and Auditor Communications.

Moved by: Paul Breger

Seconded by: Janice Bortner

MOTION passed unanimously.

5.4. Beach Bonfire Request for 7/2 & 7/3

Vice Mayor Napolitano requested the dates of July 2nd with a rain date of July 3rd for the Annual Town Bonfire.

MOTION to approve the date of July 2nd for the Annual Town Bonfire with a rain date of July 3rd.

Moved by: Natalie Magdeburger

Seconded by: Bill Rymer

MOTION passed unanimously.

5.5. Budget & Finance

Council Member Breger reported the Committee had its first meeting to review the first four months of the fiscal year. He said that the Committee created a subcommittee to look into a second bank with a national and local presence. Council Member Breger said it was a smart move to distribute funds to a national/larger bank. Treasurer Rymer said the committee recommended that the selected bank is partnered in the FDIC Network; after committee research, Bank of America, M&T and PNC Bank were the top 3 candidates..

5.6. Purchase Salt Spreader

Mayor Carmean reported that Public Works would like to purchase a salt spreader for winter road maintenance. Public Works Director Locke suggested purchasing a truck-mounted salt spreader which would dry up ice and make roads a lot easier to clean the next day. He explained that the salt used would be a magnesium-chloride based salt which is less corrosive, pet safe and will not harm grass/landscaping. The expenditure required would be \$1500 for the spreader and the purchase of salt at \$1000 totaling \$2500.

MOTION to proceed to purchase the salt spreader.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

5.7. Codification Efforts

Secretary Magdeburger reported General Code has started working on the codification efforts for the Town. She said it is moving forward with an estimated completion time of a year and half. Secretary Magdeburger will report back as needed.

5.8. Comprehensive Plan Funding Request

Planning Commission Chair Amy Kyle submitted a Council action form for a \$5,000 request for access to AECOM support during the scoping phase. Mayor Carmean reported this is a mandated process and should be thorough.

MOTION to approve \$5000 for the Comprehensive Plan review.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

5.9. Dredging Agreements

Treasurer Rymer reported archeological testing has indicated the presence of one small metallic anomaly in the proposed dredging site. He said once this item is identified, the

dredging process can move forward. Treasurer Rymer submitted a Council action form to cover \$10,000 for the actual efforts by certified professionals and \$5,000 for miscellaneous on-going consultation efforts.

Treasurer Rymer also said the Town could possibly combine Beach Replenishment funds with the Dredging funds instead of withdrawing monies from RTT. He said that the Town could rename that fund even while the Dredging Committee would work on other funding sources. Treasurer Rymer also said the State granted the Town \$350,000 but that will not be available until the Town provides contracts, budgets and timelines. He said those funds are available until 2027.

MOTION to approve the fund further studies for dredging purposes.

Moved by: Paul Breger

Seconded by: Janice Bortner

MOTION passed unanimously.

MOTION to merge Beach Replenishment fund and Dredging.

Moved by: Natalie Magdeburger

Seconded by: Janice Bortner

MOTION passed unanimously.

5.10. Environmental Committee Forum on Wind Turbines

Council Member Breger reported the Environmental Committee is looking into the Vineyards Wind lawsuit. He said he would like to use some of those arguments in their forum to push wind energy sites further offshore. Council Member Breger said there are a lot of issues in the lawsuit that have not been introduced.

Secretary Magdeburger questioned if the Environmental Committee was going to ask the Town to take an official stance. Council Member Breger said this was in the works with the Committee.

5.11. Residential Committee: Establishment of a Non-Profit

Account

Council Member Bortner asked the Town Council to consider establishing a non-profit account. She said that it has been very successful for other municipalities. Secretary Magdeburger clarified that this is only feasible through a third party but could not be established through the Town itself as it would legally be considered a conflict of interest.

Town Solicitor Metta explained the notion of a public/private partnerships can be a good thing but there are many issues to be explored. Mayor Carmean said that a small subcommittee could be formed to research the proper method to establish a non-profit.

5.12. Sidewalk Contracts

Mayor Carmean reported that Town Solicitor Mette made some suggestions on the Sidewalk contract and Century 21 Engineering agreed to the terms. She said the Town has accumulated \$548,000 via grants and other sources with the option of applying for another \$100,000 through Sussex County totaling \$648,000. The estimate from Century 21 for six blocks was \$634,000. She said that she will not proceed with the sixth block if DelDot requires the Town to pay for a new traffic light at Dagsboro or James Street.

Treasurer Rymer stated that while we could apply for the grant through Sussex County for the \$100,000 for the sidewalks, he also said the Town could use the Federal Street Aid Fund which could only be used for a couple different projects including sidewalks. He said the fund contains \$129,000 but clarified that the grant through Sussex County could be used for many different ventures.

MOTION to proceed with the sidewalk contract through Century 21.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

MOTION to use the Federal Municipal Street Aid fund for sidewalks.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

5.13. Resolution #112-2022 Fee Schedule

Town Manager Schuchman reported the Hearing Fees on the 2021-2022 Fee Schedule needed to be increased based on the costs for the most recent Board of Adjustment hearing. The amount for a Basic Application to the Board increased from \$750 to \$1,500. The amount for an application requiring Town Solicitor review increased from \$1,200 to \$2,000. Lastly, the amount for an application requiring Town Solicitor review and a court stenographer increased from \$2,000 to \$2,500.

MOTION to approve the change to the Hearing Fees on the FY 2021-2022 Fee Schedule.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

5.14. C&O Ordinance Recommendations/Readings

- Proposed First Reading: Chapter 61-14: Hours of Construction; Pile Driving
 - Secretary Magdeburger read the first reading
- Proposed First Reading: Chapter 153: Low Speed Vehicles
 - Secretary Magdeburger read the first reading. A public hearing will be held on March 4, 2022.
- Proposed Second Reading: Chapter 160-5B (1): Height Regulations
 - Secretary Magdeburger tabled this to the March 4th Town Council meeting. A public hearing was held on December 6, 2021.
- Proposed First Reading: Chapter 160-5C(5): Area Regulations
 - Secretary Magdeburger read the first reading. She stated that there would be a hearing set because it is a zoning change.

- Proposed First Reading: Chapter 160-10H: Off-Street Parking Regulations
 - Secretary Magdeburger read the first reading. Secretary Magdeburger reiterated there would be a hearing set for this change and invited public to attend.

MOTION to accept proposed amendment to Chapter 61-14: Hours of construction; pile driving for first reading.

Moved by: Natalie Magdeburger

Seconded by: Bill Rymer

MOTION passed unanimously.

MOTION to approve Chapter 153: Low Speed Vehicles as the first reading.

Moved by: Jacque Napolitano

Seconded by: Bill Rymer

MOTION passed unanimously.

MOTION to approve Chapter 160-5(B) and Chapter 160-5(C)(4): Commercial Zone Area & Height Regulations as the first reading.

Moved by: Janice Bortner

Seconded by: Bill Rymer

MOTION passed unanimously.

MOTION to accept Chapter 160-10: Off-Street Parking Regulations as proposed first reading.

Moved by: Paul Breger

Seconded by: Jacque Napolitano

MOTION passed 5-1 with Council Member Bortner dissenting.

6. Treasurer's Report - Treasurer Rymer

Treasurer Rymer reported that total cash on hand increased by \$60,000 in November and December. He also stated that RTT inflows were \$142,065.

He also said that overall expenses were running below expectation. Treasurer Rymer wants to develop a meaningful budget noting that there will be a sizable decrease in future RTT and building permits.

MOTION to accept the Treasurer's Report.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

7. Town Manager's Report - Town Manager Schuchman

Town Manager Schuchman reported that CRS has changed how award points are calculated for lowered for flood insurance. She said higher points are now being awarded to other communities which resulted in a change in the standards.

8. Department Reports

8.1. Building Report- Town Manager Schuchman

8.2. Public Works Report- Public Works Manager Locke

Public Works Manager Locke reported that as of December, 28 new backflow preventers have been installed with 16 remaining on the "to be replaced" list.

8.3. FIPD- Chief Devlin

Chief Devlin reported that a new police car has been received. He also reported that the new police car was paid for by a \$30,000 grant from Sussex County which was supplemented by an insurance payout for the other vehicle.

9. Committee Reports- Beach, Budget & Finance, Business Development, Dredging, Environmental, Infrastructure & Residential View

Beach Committee- Vice Mayor Napolitano reported the Fenwick Freeze was success. She went on to thank the Committee for their hard work as well as the efforts of Public Works. Vice Mayor Napolitano reported that 150 people turned out. The remaining size small shirts and beach towels are for sale at Town Hall. She announced the Town Bonfire would be held July 2nd with a rain date for July 3rd. She also reported that the construction of new dune end trash enclosures has been progressing,

thanks to the Public Works department.

Business Development- Council Member Breger reported that the Business Development Committee is developing 2 surveys, one for the residential concerns of business needs in Town and a survey for business owners/landlords. He said that his committee would like to conduct a business inventory of all sites.

Dredging- Treasurer Rymer reported that a metallic object was found within the dredging site, and the study findings were within expectations. He also reported that there were no issues to be expected with the permitting process. Treasurer Rymer said that the Seatowne project is \$1.4 million which roughly compares to previous project. He said they would be working with Seatowne for the next 60-90 days to help with information and that while they wait for the next Seatowne HOA meeting they would be looking for other viable options.

Residential Advocacy Committee- Council Member Bortner reported there has been progress with the Welcome Packets. She reported there were some residential parking concerns and said the committee was moving forward with a seasonal parking enforcement officer.

10. Old Business

- Town Employee Holidays Now Posted on the Website

11. New Business

Secretary Magdeburger reported she received a letter from Mr. John Chay asking Council to look into ordinances that would preserve historic houses.

- Next Town Council Meetings: March 4th & March 25th

MOTION to refer to C&O ordinances that preserve historic cottages/houses.

Moved by: Natalie Magdeburger

Seconded by: Bill Rymer

MOTION passed unanimously.

12. Upcoming Events and Meetings:

12.1. February 7th- Charter & Ordinance @ 9am

12.2. February 8th- Infrastructure @ 10am

- 12.3. February 9th- Environmental @ 9am
- 12.4. February 10th- Beach Committee @ 10am
- 12.5. February 17th- Residential Advocacy @ 1pm
- 12.6. February 21st- Presidents' Day- Town Hall Closed
- 12.7. February 24th- Planning Commission @ 9am
- 12.8. March 4th- Town Council @ 3:30pm

13. Public Participation

Amy Kyle- Planning Commission Chair Kyle said the **Planning Commission** is doing a scoping process and seeking comment from the Committees, Council, and other stakeholders so they can put together a process. She asked how the Council would want to have a conversation to solicit their feedback of what they would like to see added or updated in the Plan. Planning Commission Chair Kyle is looking to have this conversation or meeting around the end of March or beginning of April. She also said they could take the ordinance of preserving the historic cottages off the Planning Commission if it is going to Charter and Ordinance.

Amy also said that she understood there is a provision on the building permit process that allows people who are submitting building permits to request that the plans be held confidential on the basis of confidential business information. She said that if that box gets checked, then the plans are withheld from the public. She questioned the basis of that provision and where it came from. She asked if this could be submitted to the Town Solicitor for review about whether this confidentiality is consistent with business in general.

14. Executive Session

For preliminary discussion on site acquisitions for any publicly funded capital improvements; strategy sessions, including those involving legal advice or opinion for an attorney-at-law, with respect to collective bargaining or pending or potential litigation; discussion of the content of documents, excluded from the definition of "public record"; and personnel matters in which the names, competency and abilities of individual employees are discussed. Pursuant to 29 Del.C. § 10004(B)(2), (4), (6), & (9).

15. Adjournment @ 5:51pm

MOTION to adjourn the meeting.

Moved by: Natalie Magdeburger

Seconded by: Janice Bortner

MOTION passed unanimously.